

Board of Zoning Adjustment
Staff Report
November 4, 2019



Case No:	19-CUP-0159 and 19-WAIVER-0059
Project Name:	St. Agnes Catholic School Addition
Location:	1800 Newburg Road
Owner(s):	Roman Catholic Bishop of Louisville
Applicant:	Karl Lentz – LJB Inc.
Jurisdiction:	Louisville Metro
Council District:	8 and 10 – Brandon Coan and Pat Mulvihill
Case Manager:	Zach Schwager, Planner I

REQUEST

Conditional Use Permit to allow a private institutional use in an R-1 zoning district and a waiver to not provide the required vehicular use area (VUA) landscape buffer areas (LBA).

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 4,077 square foot addition to an existing 31,202 sq. ft. private institutional building and to remove an existing accessory structure to be replaced by a 6,104 sq. ft. office/multi-purpose space accessory structure. A waiver is required to not provide the VUA LBA, which is to keep the existing conditions of the parking area. Additionally, the applicant requests relief from section 4.2.65.A to allow the existing building, parking, and proposed addition to encroach into the 30 ft. setback from a residentially zoned property.

STAFF FINDING / RECOMMENDATION

There are five listed requirements. Items B. and C. do not apply. Item E. is to be determined by the Board of Zoning Adjustment. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

RELATED CASES

B-261-94 – Conditional Use Permit for a daycare center

TECHNICAL REVIEW

The plan has received preliminary approval from Transportation Planning and MSD.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

There are five listed requirements. Items B. and C. do not apply. Item E. is to be determined by the Board of Zoning Adjustment. Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

The applicant is requesting relief from this requirement.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

Item B. does not apply.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

Item C. does not apply.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

The proposal will be compliant with the metro Noise Ordinance (LMCO Chapter 99).

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

The Board must determine whether hours of operation are appropriate for this use and location.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 10.2.10

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the subject property is mostly surrounded by a cemetery and commercial properties. The land use of the subject property is not changing, and the proposed additions are on and behind the existing principal structure.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Livability Goal 1, Policy 7 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The waiver request is to allow the existing parking conditions to remain. There is no proposed development within the landscape buffer area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are requesting to allow the existing parking conditions to remain the same.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as they would be required to redevelop the existing parking areas.

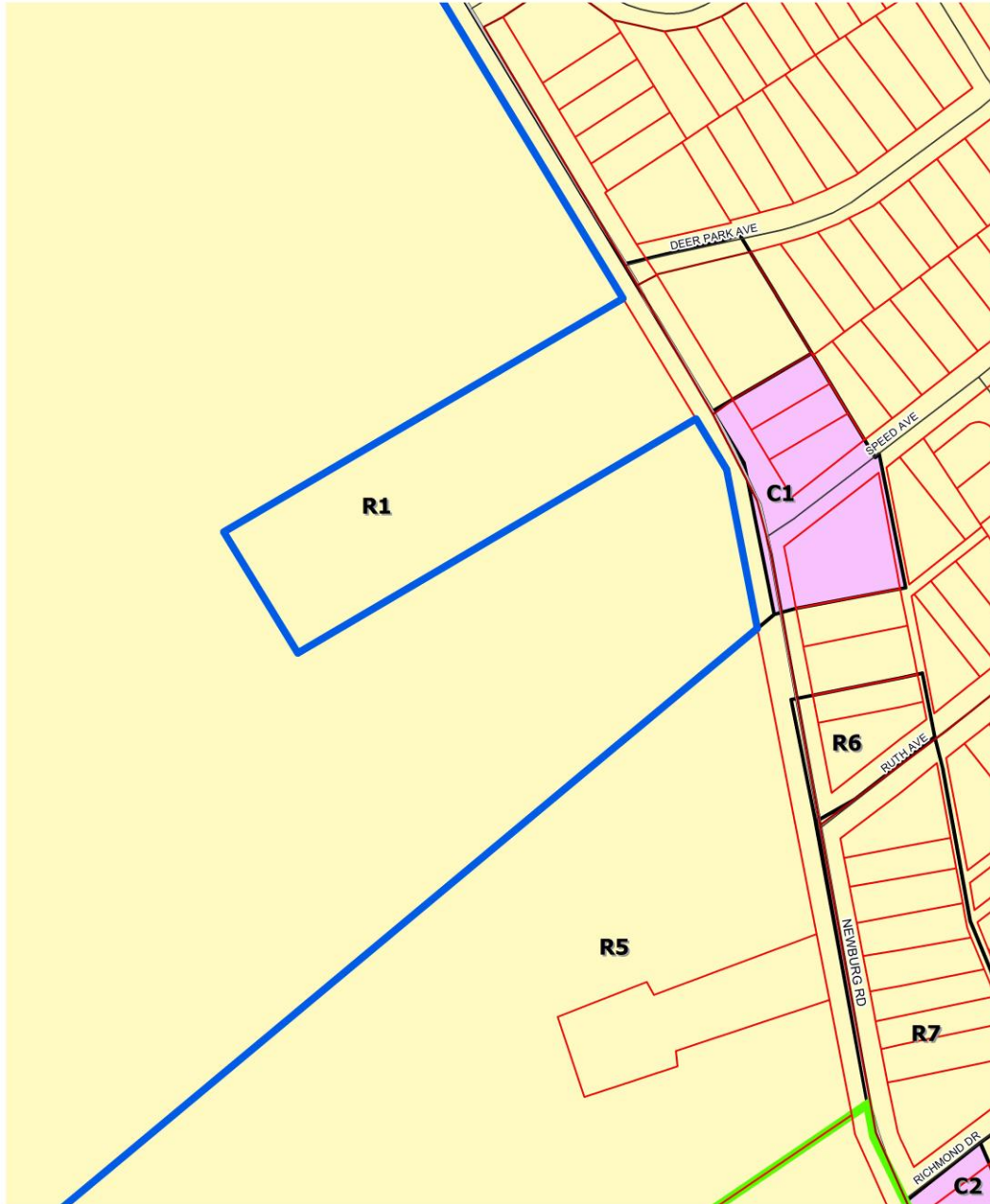
NOTIFICATION

Date	Purpose of Notice	Recipients
8/7/2019	Neighborhood Meeting	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8 and 10
10/16/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8 and 10
10/18/2019	Hearing before BOZA	Sign Posting

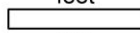
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. Zoning Map



1800 Newburg Road
feet



180

Map Created: 10/29/2019

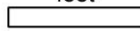


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2. Aerial Photograph



1800 Newburg Road
feet



180

Map Created: 10/29/2019



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3. 2040 Checklist

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to construct a 4,077 square foot addition to an existing 31,202 sq. ft. private institutional building and to remove an existing accessory structure to be replaced by a 6,104 sq. ft. office/multi-purpose space accessory structure.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+/-	The proposed building and existing principal structure will be within 30 ft. of the property line.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	Transportation Planning has reviewed and approved the proposal.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	NIS	Staff does not know if new signs will be added.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	School will operate at normal hours.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	NIS	Staff does not know if lighting will be provided.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has reviewed and approved the proposal.

4. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institution until further review and approval by the Board.